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PATENT

REPLY BRIEF

Applicant : Stiles, Sharidan Lorraine.
App. No : 10/648,686
Filed : August 25, 2003
For : PERSONAL SHAVING RAZOR
Examiner : Jason D. Prone
Art Unit : 3724

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

July 1, 2008

(Date)

Brenden Gingrich, Reg. No. 60295

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This is a Reply Brief for consideration in U.S. Patent Application 10/648,686, entitled "PERSONAL SHAVING RAZOR." This Reply Brief is being filed in response to the Examiner's Answer sent on May 2, 2008.

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I. STATUS OF CLAIMS

Claims 1-8, 10-12, 15, 21-24, 27-28, and 33-40 stand finally rejected. Claims 9, 13-14, 16-20, 25-26, and 29-32 stand cancelled. Accordingly, claims 1-8, 10-12, 15, 21-24, 27-28, and 33-40 are the subject of this appeal. The claims on appeal are attached hereto in the Claims Appendix.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issue on appeal is whether claims 1-8, 10-12, 15, 21-24, 27-28, and 33-40 are improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over Hollinger (D259,743) in view of Heller (4,700,477) and Lazarchik (4,785,534); or Heller (4,700,477), in view of Lamb (D169,147) and Heinrich (2,139,680) or Carreker (4,461,078); or Hollinger (D259,743) in view of Heller (4,700,477) and Smith (4,335,509).

III. ARGUMENT

Appellant hereby incorporates the arguments made in the Appeal Brief dated February 19, 2008. Appellant's Reply Brief addresses only new points of argument made in the Examiner's Answer. Failure to address a particular argument made by the Examiner is not an indication that Appellant agrees with the Examiner, but rather means that Appellant stands by her previous argument.

The Examiner's Claim Interpretation is Unreasonable

The Phrase "*extends along*" Must Be Interpreted in Light of the Specification

Appellant first turns to the Examiner's unreasonable interpretation of the phrase "extends along" as used, for example, in claims 1 and 4 of the instant application. The Examiner states that any "two things that are next to one another extend along one another," regardless of whether or not they are parallel to or in line with each other. *Examiner's Answer* at 18. For instance, the Examiner states that "using a simple graph with an X-axis and a Y-axis, if a line extends between points (1,1) and (2,5), the line extends along the X-axis." *Examiner's Answer* at

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18. Appellant respectfully disagrees with the Examiner's unreasonable interpretation of the phrase "extends along" in the context of the instant application.

While Appellants acknowledge that the Examiner is permitted to interpret claim language broadly, such interpretation must nonetheless still be reasonable. "The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction 'in light of the specification as it would be interpreted by one of ordinary skill in the art.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) (citing *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)). See also, *In re Buszard*, 504 F.3d 1364 (Fed. Cir. 2007).

The specification of the instant application indicates that the handle of the razor is made up of three portions, each one extending along a distinct axis:

The razor 30 illustrated in FIG. 6 has a handle 31 made of three longitudinal portions, 32, 34, 36...The bottom longitudinal portion 32 extends generally along a first longitudinal axis 33...The middle longitudinal portion 34 extends generally along a second longitudinal axis 35. The top longitudinal portion 36 extends generally along a third longitudinal axis 37. *Specification* at paragraph [0028].

As illustrated in Figure 6 of the instant application, each longitudinal portion (32, 24, and 36) extends along an axis (33, 35, and 37, respectively) which is clearly defined and substantially parallel to and in line with its corresponding longitudinal portion. Accordingly, a person of ordinary skill in the art would interpret a longitudinal portion that "extends along" an axis in the context of the instant application as a longitudinal portion that extends substantially parallel to or in line with the axis.

Furthermore, Dictionary.com provides multiple definitions for the term "along."¹ "Along" is defined as "beside," as well as "by the length; lengthwise; parallel to or in a line with the length or direction." According to *MPEP* § 2111.01, when a claim term has multiple commonly used definitions, the Examiner must consult the intrinsic record, *e.g.*, the specification, to determine the proper meaning of the term:

If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of

¹ Appellant notes that the Examiner has cited to Dictionary.com for the first time in his Answer Brief (see page 18) and therefore Appellant avails herself of the same opportunity.

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the different possible definitions is most consistent with applicant's use of the terms. *Brookhill-Wilk I*, 334 F. 3d at 1300, 67 USPQ2d at 1137; see also *Renishaw PLC v. Marposs Societa" per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) ("Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings."). *MPEP* § 2111.01

In the instant case, the Examiner has failed to use the specification to properly interpret "along." The term "along" must be interpreted to be consistent with Appellant's use of the term in the instant specification. Accordingly, the term "along" must be interpreted by the Examiner, as it would be interpreted by one skilled in the art, to mean "by the length; lengthwise; parallel to or in a line with the length or direction."

As Appellant has argued in her Appeal Brief, the main portion of the handle disclosed by Hollinger is a continuous curve. As a result, contrary to the Examiner's assertion, Hollinger does not disclose a handle having lower, middle and upper longitudinal portions that extend along a first, second, and third axis, respectively. Nevertheless, even if Hollinger did disclose a handle having lower, middle and upper longitudinal portions, a point which Appellant does not concede, these longitudinal portions would extend along axes that are parallel to their respective portions. As such, only one extension would be defined by these axes and the Examiner cannot use the single handle disclosed in Hollinger to anticipate both claim 1 and claim 4, claims which are mutually exclusive in scope, based on the recited value for the extension angle – less than or equal to ninety degrees for claim 1, and greater than ninety degrees for claim 4.

The Term "*disposable*" Must Be Interpreted in Light of the Specification

Appellant next turns to the Examiner's unreasonable interpretation of the term "disposable" as used, for example, in claims 2, 11, and 33 of the instant application. The Examiner simply states that "[a]ll things are disposable. All things can be thrown away of gotten rid of." *Examiner's Answer* at 20. Appellant respectfully disagrees with the Examiner's unreasonable interpretation of the term "disposable" in view of the instant application.

As stated above, while Appellants acknowledge that the Examiner is permitted to interpret claim language broadly, such interpretation must nonetheless still be reasonable. "The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable

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construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) (citing *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)). See also, *In re Buszard*, 504 F.3d 1364 (Fed. Cir. 2007).

The Examiner’s interpretation of “disposable” as encompassing everything is unreasonable. Such an interpretation of the term renders it meaningless – if everything is disposable, then reciting that the razor head is “disposable” is no limitation at all. Clearly, one of skill in the art would not understand Appellant’s use of the term “disposable” in view of the specification to be merely an intended use that encompasses all razors.

As indicated in the instant specification, “disposable” shaving heads refer to those that can be “interchangeably mounted on the same handle.”

[0020] In certain embodiments, the razor is integrally molded, in plastic for example, to provide a number of different blade width shaving heads in a disposable form. The various width shaving heads can be interchangeably mounted on the same handle in some embodiments allowing maximum flexibility in the usage of a shaver. For instance, for general purpose shaving a larger shaving head can be used such that an area of hair can be removed faster. However, where an area is difficult to shave due to the space availability of the surface, or where greater detail is required, a smaller shaving head can be used to carefully remove the unwanted hair while leaving undisturbed the surrounding hair or skin.

Consequently, the specification of the instant application provides clear guidance to one of ordinary skill in the art for interpreting the term “disposable” in the context of shaving heads.

In the instant case, the Examiner has failed to interpret the term “disposable” in light of the specification. The term “disposable” must be interpreted to be consistent with Appellant’s use of the term in the instant specification. Thus, a head portion that is “disposable”, as described in claims 2, 11, and 33, must be interpreted by the Examiner, as it would be interpreted by one skilled in the art, to mean a head portion that can be “interchangeably mounted on the same handle.”

Conclusion

Appellant submits that the claim limitations discussed above represent only illustrative distinctions from the prior art. There may be other patentable features that distinguish the

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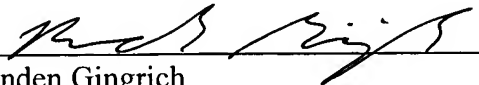
claimed invention from the prior art. In view of the deficiencies in the Examiner's rejections discussed above as well as in Appellant's Appeal Brief, Appellant respectfully requests that the Examiner's rejections of the pending claims under 35 U.S.C. § 103(a) over the cited references be reversed.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 1, 2008

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IV. CLAIMS APPENDIX

1. A personal styling razor, comprising:
a handle portion having lower, middle and upper longitudinal portions; and
a head portion, having a razor blade with a straight cutting edge, attached to said upper longitudinal portion wherein said head portion and said razor blade are configured to permit shaving hair;
wherein said cutting edge of said razor blade is substantially perpendicular to a longitudinal axis of the handle;
wherein said lower longitudinal portion extends along a first axis, said middle longitudinal portion extends along a second axis and said upper longitudinal portion extends along a third axis;
wherein said second and third axes intersect at a single point and form a fixed extension angle that is less than or equal to ninety degrees;
wherein said extension angle is defined by a portion of said second axis starting from the intersection of said second and third axes and extending toward the intersection of the first and second axes, and a portion of said third axis starting from the intersection of said second and third axes and extending toward the razor head, wherein the extension angle faces the front of the razor;
wherein said first and said second axes intersect at a single point and form a fixed contour angle that is less than 180 degrees;
wherein said contour angle is defined by a portion of said first axis starting from the intersection of said first and second axes and extending toward the end of said razor handle portion located on said lower handle portion, and a portion of said second axis starting from the intersection of said first and second axes and extending toward the intersection of said second and third axes, wherein the contour angle faces the front of the razor; and
wherein said head portion has a width of less than or equal to one inch.
2. The personal styling razor of Claim 1, wherein said head portion is disposable.
3. The personal styling razor of Claim 1, wherein said head portion is pivotally mounted on said handle portion.
4. A personal styling razor, comprising:

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a handle portion having lower, middle and upper longitudinal portions; and

a head portion, having a razor blade with a straight cutting edge, attached to said upper longitudinal portion wherein said head portion and said razor blade are configured to permit shaving hair;

wherein said cutting edge of said razor blade is substantially perpendicular to a longitudinal axis of the handle;

wherein said lower longitudinal portion extends along a first axis, said middle longitudinal portion extends along a second axis and said upper longitudinal portion extends along a third axis;

wherein said second and third axes intersect at a single point and form a fixed extension angle wherein said extension angle is greater than ninety degrees;

wherein said extension angle is defined by a portion of said second axis starting from the intersection of said second and third axes and extending toward the intersection of the first and second axes, and a portion of said third axis starting from the intersection of said second and third axes and extending toward the razor head, wherein the extension angle faces the front of the razor;

wherein said first and said second axes intersect at a single point and form a fixed contour angle that is less than 180 degrees;

wherein said contour angle is defined by a portion of said first axis starting from the intersection of said first and second axes and extending toward the end of said razor handle portion located on said lower handle portion, and a portion of said second axis starting from the intersection of said first and second axes and extending toward the intersection of said second and third axes, wherein the contour angle faces the front of the razor; and

wherein said head portion has a width of less than or equal to one inch.

5. The personal styling razor of Claim 1, wherein a length of said upper longitudinal portion is greater than said width of said head portion.

6. The personal styling razor of Claim 1, further comprising a second razor blade mounted substantially parallel to said razor blade.

7. The personal styling razor of Claim 1, wherein said lower longitudinal portion comprises a first curved shape and said middle longitudinal portion comprises a second curved

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shape and wherein said first and second curved shapes form an ergonomically advantageous grip for said personal styling razor.

8. The personal styling razor of Claim 1, further comprising a glide surface area and a blade area, wherein said glide surface area is larger than said blade area.

9. (Canceled).

10. A detail shaving razor, comprising:
an ergonomically shaped handle portion; and
a head portion attached to said handle portion and formed with at least one razor blade having a straight cutting edge wherein said head portion and said razor blade are configured to permit shaving hair;

wherein said head portion is less than or equal to 1/2 inch wide;

wherein said cutting edge of said razor blade is substantially perpendicular to a longitudinal axis of the handle;

wherein said handle portion is adapted to provide increased control over the head portion during shaving;

wherein said handle portion further comprises a front or rear perspective that is substantially hour-glass in shape, having:

a lower longitudinal portion of a first curved shape; and

a middle longitudinal portion of a second curved shape attached lengthwise to said first lower longitudinal portion;

wherein a waist portion is formed between said first curved shape and said second curved shape.

11. The detail shaving razor of Claim 10, wherein said head portion is disposable.

12. The detail shaving razor of Claim 10, wherein said head portion is pivotally mounted on said handle portion.

13-14. (Canceled).

15. The detail shaving razor of Claim 10, further comprising a second razor blade mounted substantially parallel to said razor blade.

16-20. (Canceled).

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21. The personal styling razor of Claim 1, wherein said head portion is equal to or less than 1/4 inch wide.

22. The personal styling razor of Claim 1, wherein said head portion is equal to or less than 1/8 inch wide.

23. The detail shaving razor of Claim 10, wherein said head portion is equal to or less than 1/4 inch wide.

24. The detail shaving razor of Claim 10, wherein said head portion is equal to or less than 1/8 inch wide.

25-26. (Canceled).

27. The personal styling razor of Claim 4, wherein said head portion is equal to or less than 1/4 inch wide.

28. The personal styling razor of Claim 4, wherein said head portion is equal to or less than 1/8 inch wide.

29-32. (Canceled).

33. The personal styling razor of Claim 4, wherein said head portion is disposable.

34. The personal styling razor of Claim 4, wherein said head portion is pivotally mounted on said handle portion.

35. The personal styling razor of Claim 4, wherein a length of said upper longitudinal portion is greater than said width of said head portion.

36. The personal styling razor of Claim 4, further comprising a second razor blade mounted substantially parallel to said razor blade.

37. The personal styling razor of Claim 4, further comprising a glide surface area and a blade area, wherein said glide surface area is larger than said blade area.

38. The personal styling razor of Claim 1, wherein said cutting edge of said blade extends beyond said head portion, such that no portion of said razor head extends beyond the cutting edge of said blade, and the cutting edge of said blade is unobstructed by any portion of said razor, such that said cutting edge can shave unwanted hair from a body surface.

39. The personal styling razor of Claim 4, wherein said cutting edge of said blade extends beyond said head portion, such that no portion of said razor head extends beyond the

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cutting edge of said blade, and the cutting edge of said blade is unobstructed by any portion of said razor, such that said cutting edge can shave unwanted hair from a body surface.

40. The detail shaving razor of Claim 10, wherein said cutting edge of said blade extends beyond said head portion, such that no portion of said razor head extends beyond the cutting edge of said blade, and the cutting edge of said blade is unobstructed by any portion of said razor, such that said cutting edge can shave unwanted hair from a body surface.